

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

ROBERT MOORE
Plaintiff,

v.

**U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT; U.S. CUSTOMS AND
BORDER PROTECTION; AND
U.S. DEPARTMENT OF HEALTH
AND HUMAN SERVICES,
Defendants.**

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EP-19-CV-00279-DCG

JOINT REPORT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Pursuant to the Court's Order to comply with Federal Rule of Civil Procedure 26 and Local Rule CV-16, Plaintiff Robert Moore, and Defendants U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection; and U.S. Department of Health and Human Services, by and through the United States Attorney for the Western District of Texas, (hereinafter referred to as the "Parties") hereby submit the following to the Court:

A. Proposed Discovery Plan

1. The parties agree and stipulate pursuant to Fed. R. Civ. P. 26(a)(1)(A) that initial disclosures are not necessary as this is a Freedom of Information Act ("FOIA") action for which there is no need to exchange disclosures.
2. All discovery should be completed on or before **June 22, 2020, or as otherwise ordered by the Court.** The Parties will not conduct discovery in phases or limit discovery to particular issues at this time.
3. At this time, the Parties are unaware of any issues about disclosure or discovery of electronically stored information ("ESI"). The Parties have agreed to the following regarding ESI:

- i. The Parties agree that relevant ESI will be produced in its native or quasi-native format. The Parties may produce all documents in this case, including any ESI, on a disk.
 - ii. If a substantial amount of discovery involving ESI becomes necessary, the Parties will discuss search terms and reasonable limits on the scope of any search and production of ESI prior to requesting ESI. *See* Fed. R. Civ. P. 26(b)(1) and (2).
 - iii. The Parties will agree to reasonable limits on the scope of any search and production of ESI in the event a party feels a request for ESI is overbroad or unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1) and (2).
4. If necessary, the Parties will enter into an agreement regarding the non-waiver of privileged and/or work product information, regarding the inadvertent production of privileged material.
5. The Parties will not make any changes in the limitation on discovery imposed under the Federal Rules of Civil Procedure or by the Local Court Rules for the Western District of Texas. Plaintiff and Defendant shall comply with the Local Court Rules for the Western District of Texas and the Federal Rules of Civil Procedure regarding interrogatories, requests for admissions, requests for production, and depositions.
6. At this time, the Parties are unaware of any issues about claims of privilege or of protection as trial-preparation materials. The Parties do not anticipate the necessity of any protective orders to be entered by the Court under Subdivision (c) of Federal Rule of Civil Procedure 26. If necessary, the Parties will jointly file a Privacy Act Protective Order and/or the protective order found in Appendix H of the Local Rules to be entered under Subdivision (c) of Federal Rule of Civil Procedure 26.
7. Plaintiff and Defendant will submit to this Court, on or before **December 18, 2019**, a proposed Scheduling Order for the Court's consideration, pursuant to Federal Rule of Civil Procedure 16(b) and (c).

B. Joint Report

1. Plaintiff has not filed and served a Right to Jury Trial pursuant to Federal Rule of Civil Procedure 38. Plaintiff does not have a right to jury trial under the FOIA.
2. Plaintiff consents to place this matter on the United States Magistrate Judge's Docket. Defendants do not consent to place this matter on the United States Magistrate Judge's Docket.
3. Plaintiff has obtained service on Defendant.

Respectfully submitted,

JOHN F. BASH
UNITED STATES ATTORNEY

Date: 12/17/19

/s/ Manuel Romero

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